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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 30 2008

In re United States Patent Application of:	Docket No.:	4240-130
Applicants:	Conf. No.:	4588
Application No.:	Art Unit:	1632
Date Filed:	Examiner:	Valarie Bertoglio
Title:	Customer No.:	
MULTIPOTENT STEM CELLS ISOLATED FROM UMBILICAL CORD BLOOD AND THE CELLULAR THERAPEUTIC AGENT COMPRISING THE SAME FOR TREATING ISCHEMIC DISEASE		

23448

FACSIMILE TRANSMISSION CERTIFICATE

ATTN: Examiner Valarie Bertoglio

Fax No. (571) 273-8300

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Number of Pages

Kate Pope

January 30, 2008

Date

**RESPONSE TO JANUARY 3, 2008 RESTRICTION REQUIREMENT IN U.S. PATENT
APPLICATION NO. 10/555,852**

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Sir:

This responds to the January 3, 2008 Office Action imposing a restriction requirement against claims 1-16 of the above-identified application. In the examiner's remarks on page 2 of the Office Action, it is stated that claim 5 "fails to recite any active method steps and merely recites characteristics of the cells." This characterization is not correct, since the claim recites "the method comprising the steps of: culturing umbilical cord-derived blood in a medium containing 5-20% of human serum or plasma; and recovering the adult stem cells." Therefore, affirmative method steps of culturing and recovery are recited.

In the January 3, 2008 Office Action, the Examiner has required restriction under the provisions of 35 U.S.C. 121 between:

Group I, claims 1-11 and 16: drawn to stem cells, and compositions comprising said stem cells, obtained through culture of umbilical cord blood have various claimed characteristics including specific marker expression and morphology as well as the ability to differentiate into mesodermal, endodermal and ectodermal cells and a method of making said stem cells;

Group II, claims 12-14: drawn to a method of treating cardiovascular disease using stem cells obtained from umbilical cord blood; and

Group III, claim 15: drawn to a method of treating necrosis involving a limb using stem cells obtained from umbilical cord blood.

In response, Applicant hereby elects Group I, claims 1-11 and 16 in the present application.

In response to the requirement that identification of claims encompassing the elected invention be set forth, the claims readable on the stem cells, compositions and methods of Group I are claims 1-16, inasmuch as the Group II claims 12-14 require "adult stem cells as claimed in claim 1," and the Group III claim 15 likewise requires the "adult stem cells as claimed in claim 1."

The restriction requirement is traversed on the basis that the adult stem cells of claim 1 are required in the Group II and Group III claims. It therefore is requested that the claims of Groups II and III be consolidated with the claims of Group I for examination on the merits. Failing such consolidation, it is requested that the Group II and III claims 12-15 be rejoined with the Group I

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claims 1-11 and 16 upon finding of allowable subject matter in Group I claims 1-11 and 16, under the rejoinder provisions of MPEP 821.04.

It therefore is requested that prosecution of this application proceed, consistent with the foregoing election and remarks.

Respectfully submitted,



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